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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,852	09/19/2001	Helge Ahrens	Bciersdorf 742-KGB	9878

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NORRIS, MCLAUGHLIN & MARCUS, PA
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EXAMINER

GHALI, ISIS A D

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955,852

Applicant(s)

AHRENS ET AL.

Examiner

Isis Ghali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/07/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

The receipt is acknowledged of applicants' amendment and terminal disclaimer, both filed 09/07/2004.

Claims 2, 4-12 are included in the prosecution.

Claim Rejections - 35 USC § 102

1. Claims 2, 4, 7, 10, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,377,159 ('159).

US '159 disclosed a pressure bandage for the wounds comprising a carrier tape uniformly covered by a pressure sensitive adhesive layer adheres to it a prism-shaped section that is beveled as shown from figure 1 (abstract; figure 1; col.1, lines 36-39; col.2, lines 55-59; col.4, lines 34-37). The adhesive layer extends beyond the prism shaped section to adhere to the skin (figure 7; col.4, lines 29-33). The prism-shaped section is polyurethane foam and the pressure sensitive adhesive is acrylic acid polymer and esters (col.4, lines 55-68; col.5, lines 23-25). The polyurethane foam may include active agent (col.5, lines 28-32).

Response to Arguments

2. Applicant's arguments filed 09/07/2004 have been fully considered but they are not persuasive. The main gist of applicants' argument against the anticipatory rejection is that the reference does not teach the adhesive surrounding the polyurethane matrix as instantly claimed.

In response to applicants' argument, the examiner position is that the reference disclosed wound dressing having a carrier layer and a foam layer, as claimed by applicants, and also teaches that it is preferably that the width of the foam be corresponding to the width of the carrier tape, col.3, line 26-29. The reference further teaches that the tape adheres to the skin circumjacent the site of application. Therefore, these teachings imply that the tape can be wider than the foam and surrounds it in order to adhere to the circumjacent skin. The disclosed examples and preferred embodiment do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). Where the claimed and prior art products are identical in structure, a prima facie case of anticipation has been established. Applicants had failed to show that the reference did not possess the functional characteristics of the claims. *In re Best*, 562 F.2d 1252, 195 USPQ 430,433 (CCPA 1977).

Claim Rejections - 35 USC § 103

3. Claims 5, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US '159 in view of US 4,867,748 ('748).

The teachings of US '159 are discussed under 102 rejection above.

However, US '159 does not teach the material of the carrier film as claimed on claim 5 or the cover of siliconized paper as claimed in claims 9 and 12.

US '748 teaches a wound dressing comprising central sealing pad that is beveled along all its outer edge in thickness dimension (col.2, lines 29-33). The sealing pad comprises polyurethane (col.3, line 64). The sealing pad is covered on one side by film made of polyurethane, polyethylene, polyester or polyamide, and on the other side by protective cover of siliconized paper (col.3, lines 34-46). These covering layers are water-tight and water insoluble and have high mechanical strength, and the siliconized paper film is easily detachable.

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide the wound dressing comprising carrier layer, an adhesive layer, and a beveled polyurethane section as disclosed by US '159, and select the materials for the carrier layer and the cover layer disclosed by US '748, motivated by the teaching of US '748 that the covering layers are water-tight and water insoluble and have high mechanical strength, and the siliconized paper film is easily detachable, with reasonable expectation of having a dressing with beveled polyurethane section carried on a layer of polyurethane, polyethylene, polyester or polyamide and covered by siliconized paper that is protected from the environmental effects and easily used.

4. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US '159.

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The teachings of the reference are discussed above.

However, the reference does not teach the claimed thickness of the carrier film and the adhesive layer.

The claimed thickness of the layers does not impart patentability to the claims because the art recognized dressing having the claimed structure, absent evidence to the contrary.

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide the wound dressing comprising carrier layer, an adhesive layer, and a beveled polyurethane section as disclosed by US '159, and adjust the thickness of different layers according to specific intended use, with reasonable expectation of having dressing with the claimed thickness of each layer.

Response to Arguments

5. Applicant's arguments filed 09/07/2004 have been fully considered but they are not persuasive. Applicants traverse the obviousness rejections by arguing that there is no suggestion for an adhesive surrounds the foam layer.

In response to applicants' argument, the examiner position is that the reference implied the adhesive can surround the foam as stated above. In considering the disclosure of the reference, it is proper to take into account not only the specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom. *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). The rational to modify or to combine the prior art does not have

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to be expressly stated in the prior art; the rational may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art. The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve different problem. It is not necessary that the prior art suggest the combination or modification to achieve the same advantage or result discovered by applicant. *In re Linter*, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis Ghali whose telephone number is (571) 272-0595.

The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isis Ghali
Examiner
Art Unit 1615

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